EXHIBIT A

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1              IN THE UNITED STATES DISTRICT COURT
             FOR THE EASTERN DISTRICT OF VIRGINIA
2                    RICHMOND DIVISION

3    _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _
                                        :
4    ePLUS, INC.,                       :
                                        :
5                    Plaintiff,         :
     v.                                 :  Civil Action
6                                       :  No. 3:09CV620
     LAWSON SOFTWARE, INC.,             :
7                                       :  January 22, 2010
                     Defendant.         :
8    _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ :

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11           COMPLETE TRANSCRIPT OF MARKMAN HEARING
              BEFORE THE HONORABLE ROBERT E. PAYNE
12                 UNITED STATES DISTRICT JUDGE

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15   APPEARANCES:

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                 UNITED STATES DISTRICT COURT
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1 one I mentioned there was a slight hiccup with respect

2 to Judge Spencer's construction.

3   THE COURT: Hold on one minute before you get

4 into that, sir.

5   MR. ROBERTSON: Sure, sir.

6   THE COURT: Okay. All right. Excuse me. Go

7 ahead.

8   MR. ROBERTSON: Yes, sir. There was a slight

9 hiccup with respect to this in Judge Spencer's

10 construction. He actually used the definition of

11 "selected matching items" for "matching items," and I

12 just think he just conflated the two. We really don't

13 know what his motivation was, but I respectfully

14 suggest that that was wrong because a matching item is

15 not necessarily one you're going to select for a

16 requisition or an order list.

17   So we did -- I'm on page 27, Your Honor, of

18 our slides here. Again, we suggested that this didn't

19 require construction, but to the extent the Court

20 thought it did, we put there are items returned in

21 search results that satisfy search criteria and are

22 selected for inclusion in an order list or in a

23 requisition. I think that distilled down to its

24 essence, that's a requisition item. And so, therefore,

25 I withdraw that alternative, and I would live with

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 1 Judge Brinkema's and the specification history.

 2   I think the mischief of Lawson's proposed

 3 construction is that it requires to be selected by a

 4 user again in the search program, and that it be used

 5 for inclusion in an order list. And, again, we think

 6 it does not necessarily need to be in an order list

 7 because there are examples where it is not included

 8 necessarily in an order list because it could be

 9 included simply as a selected matching item in a

10 requisition before being ordered.

11   It could be in an order list in addition to a

12 requisition, which I'm being reminded of because

13 actually claim 1 of the '172 Patent says that it is

14 actually selected for an order list, but the claim

15 expressly states that. So by implication, if there are

16 claims that don't state it, it can be included in an

17 order list.

18   THE COURT: Does that mean that we have one

19 definition for one claim and another definition for

20 another claim?

21   MR. ROBERTSON: That means when you add

22 additional language to a claim that further limits, it

23 should be read that way, and when there's a claim that

24 doesn't have that language in it, it shouldn't be so

25 limited.